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# THE JOURNAL OF POLITICAL ECONOMY

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## RECIPROCITY WITH GERMANY. II

In a former paper it has been shown how our tariff controversy with Germany has, after a period of perhaps fifteen years, at last resulted in some changes in customs administration and in the negotiation of a reciprocity treaty. The terms of these changes in customs administration have been sketched in the former paper. The terms of the reciprocity treaty have not been made public,<sup>1</sup> but their general tenor is well understood to be a reduction of probably 20 per cent. on a certain list of enumerated articles, in return for corresponding reductions in American goods entering German ports, with some concessions to American meat products exported to Germany. It is doubted by few that we can prolong the existing *modus*, negotiated by the tariff commission of 1907, at our pleasure. The questions therefore arise: How far is this *modus* desirable? How far will it establish a satisfactory basis of trade? Why should we negotiate any reciprocity treaty? Will such a treaty interfere with more far-reaching and more beneficial tariff changes that might be made in the future? An attempt will be made to furnish a tentative reply to some of these questions. The present situation is crucial. It is the well-understood purpose of the existing administration to throw the reciprocity question into the hands of the next Presidential convention for settlement, should the Senate, as now seems likely, turn a deaf ear to the whole subject. The attitude now to be taken by the voters of the country will there-

<sup>1</sup> The terms of the agreement with Germany published since writing the above are appended to this article.

fore be necessarily decisive, not only of this particular phase of the tariff issue, but possibly of very much broader problems connected with it.

## I

It is well first of all to understand our precise position on the general question of international commercial relations. If things go as at present, there need, perhaps, be little alarm from the protective standpoint. As seen in a former paper, we shall receive under the present agreement about 97 per cent. of all the tariff reductions to which any country having "favored-nation" relations with Germany is entitled. This signifies, in other words, that we are at a disadvantage in German trade only on about 3 per cent. of all articles entering into that trade. There are many more articles than would be represented by this 3 per cent. upon which reductions not accorded to the United States are granted to the countries in which the goods originate. But this, of course, is of little interest to us. The main fact in the situation is that, on those goods in which we are interested and in which we compete with others, only about 3 per cent. are so treated under the new agreement as to prefer other countries. This is not a situation that need cause worry to protectionists for the immediate present. Provided we could expect to go on indefinitely upon the present basis, and could anticipate no difficulty with other countries due to the same causes, it would be entirely reasonable to say that we had come out of the situation as well as could have been anticipated, and that the mere getting of further preferred treatment upon 3 per cent. of our exports to Germany would hardly be worth the effort it would cost. If, therefore, we had no interest in the problem of tariff accommodation and concession from any broader standpoint, and were merely intent upon getting what we could in the way of tariff reductions for our exported goods, we might perhaps rest content—granting that the suppositions already made continued to hold.

But these hypotheses are sound only from the temporary standpoint. As pointed out in our former paper Germany is dissatisfied with the attitude of this country in the interpre-

tation of the most-favored-nation clause of our commercial treaties. She feels, and rightly, that our present policy, in view of that clause is not founded in justice. Hence she asks either that we should consent to adopt her interpretation, or that each country be permitted to make its own interpretation without further friction. Therefore, more as a vindication of principle than for any other reason, Germany has placed us upon a basis of disadvantage with reference to other competing nations. True, this discriminating policy is limited in scope, applying to only about 3 per cent. of competing commodities; but it contains in it the seeds of possible future trouble. If Germany should at a later date, as she may do at any time, conclude commercial treaties giving to one of our commercial rivals large advantages in German ports, and should decline to accord to us similar advantages under the most-favored-nation clause of our treaty with Prussia of 1828, the situation might suddenly grow serious. Moreover, it is a fact that the attitude of other countries is far from encouraging. They are taking the stand that they also must have tariff concessions, if they are to grant us the same advantages of entry into their ports that are given to the most favored nations. They are therefore inclined to place us at a differential disadvantage. This has already appeared in the case of one or two, with whom we have lately had diplomatic passages at arms. Finally, it should be understood that, even if we could be saved from this danger of discrimination and could be assured that all would go on upon the existing basis of commercial relationships, it would still remain true that the present basis is far from ideal, and that too without any regard to the abstract question of protection or free trade. This is for the reason that the tariff concessions which we are to enjoy under the new *modus* have been shaped by other countries and not by ourselves. The difficulty can be understood by a moment's reference to the system of maximum and minimum rates which the Germans have built up. Maximum rates were first fixed, and then by special treaties arrangements were made for letting down these rates in the case of certain enumerated commodities. Such arrangements were not made by

the United States, but were negotiated by the seven countries which entered into commercial treaties with Germany and which are on the most-favored-nation basis. After these treaties had been negotiated, the United States, through its negotiations of the past year, merely secured the extension of the same reductions of duty to our commodities. It is as if a suit of clothing made to measure for one individual were by courtesy placed at the disposal of another for his immediate uses. The suit would be better than none, but would not be likely to meet the needs of the second person as well as one made for him. Suppose, for example, that special advantages had been granted to China on tea shipped to Germany from the latter country. Suppose further that the United States is granted the benefit of the same advantages in duties. This will not materially benefit the United States, because our tea crop is an exotic product raised simply as an experiment. The same is true, in a less extreme way, of other goods in which it would be well for us if we could get reductions but on which other countries are not particularly desirous of changes, because they are not active competitors in those lines.

From what has been said, therefore, it is seen that neither positively nor negatively is the present status in trade with Germany satisfactory. It is not certain to last. It may be changed for the worst at any moment. It is ill adapted to our needs under the most favorable conditions.

## II

If the German situation is thus unsatisfactory, what can be done? What must be done to ward off the threat of tariff retaliation, and to give us as good a status as that which belongs to anyone in German markets? These questions may be considered separately.

In order to be sure of receiving in the future the treatment accorded by Germany to the most favored nations, we must first of all come to an understanding with Germany as regards the interpretation of the most-favored-nation clause in commercial treaties. It will not be sufficient to accord to Germany some reductions

in rates of duty. We must in addition discuss, and come to a common basis upon, the broader question of commercial policy. It is today our fixed principle not to extend to nations having commercial treaties with us the reductions of duty or other commercial privileges which are granted to other nations by subsequent agreement. Germany, in common with other European nations has adopted the other attitude with regard to this question, and automatically extends to all countries having most favored relations with her such tariff concessions as are later given to others. Can we gain our own consent to pursue the same policy, thus altering our traditional plan of action? This is purely a question for our State Department to determine. It can, if it chooses, alter its interpretation of this clause wherever it occurs in commercial treaties with Germany and with other countries. Such a step would be a radical departure from anything that has been attempted hitherto, and would doubtless lead to suits before the Supreme Court of the United States for the purpose of deciding whether such interpretations by the Department would hold. But it is not a subject which calls for legislation. Should the State Department adopt this view of the clause in question, the result might not be of great importance with respect to any considerable number of commodities at the present time, but it would in the long run be of much significance. This significance would grow as a reciprocity system involving a large group of commercial treaties was carried farther and farther. A good idea of its bearing can be had from a glance at our present relations with Cuba. Suppose that we should come to an understanding with Germany whereby we agreed to adopt the German view of the most-favored-nation clause for all subsequent commercial arrangements. Suppose further that we should extend the duration of the reciprocity treaty now in force between Cuba and ourselves. That treaty grants a reduction of 20 per cent. upon Cuban goods entering the United States. Chief among these goods is, of course, sugar. Germany has an extensive beet-sugar industry, and is extremely desirous of enlarging and fostering it. Laying aside the possibility of some evasion based

upon the difference between raw and refined sugar, and supposing that the reduction is continued at 20 per cent. on all classes of Cuban sugar, it is evident that an interpretation of the most-favored-nation clause which would give to German sugar the same advantages that are accorded to Cuban would be an act of fundamental importance. It would mean that the amount of sugar coming to compete with the domestic beet-sugar product at the lower rates mentioned in the Cuban treaty might be enormously increased. Should this interpretation be extended to all countries under the most-favored-nation clause—as it would have to be, were it granted to any one of them—the conclusion of a given commercial treaty would be almost tantamount to a flat reduction of duty, applicable to all the world, on the articles included in the given treaty. Of course, this would not hold true of countries which did not enjoy favored-nation relations with the United States. But it is also true that such countries would probably make application to be placed upon the most-favored-nation basis, and that, if they offered substantial concessions to us, we could hardly refrain from meeting their request. This is the demand which Germany practically makes when she suggests that we adopt the interpretation of the most-favored-nation clause which prevails in Europe. It is the present general understanding that only through the adoption of such an interpretation can we in the future secure the status of most favored nation with Germany herself, and be sure of receiving all reductions of duty that are accorded to the goods of any other nation entering German ports.

### III

The problem of the most-favored-nation clause does not exhaust the issues which are now at stake between ourselves and foreign nations. Even if we were willing to accept their interpretation of that clause, and thus to safeguard ourselves against future discrimination, there would remain the question whether it would be wise to go on and put into effect a system of reciprocity treaties like that prepared by the tariff commission which visited Germany last winter, but not yet made public. The

question epitomizes the whole issue of protection and the revision of the tariff. From what has already been said it is clear that, with a changed interpretation of the most-favored-nation clause, a reciprocity treaty with Germany will almost commit us to general flat reductions of duty in corresponding amounts; and that we shall be absolutely thus committed in the case of those countries with which we have favored-nation relations. We may be led to embark upon a series of treaties which will be tantamount to progressive reductions of the tariff, each successive change in a treaty being automatically extended to other countries.

This is not the place for an abstract discussion of the advisability of general tariff revision. For the purposes of this paper it will be assumed that at least some recession from the existing schedules is requisite and would have good results. Few serious students of the tariff situation now existing in this country would be inclined to quarrel with so moderate a position as is thus stated. Granting these premises, therefore, the problem of reciprocity with Germany becomes reduced to a question whether it is better to get the reduction by negotiation or to reach the same object through a general revision of the tariff. Looking at the question from this standpoint, it may fairly be said that two questions only are involved: (1) Do we want the tariff reductions quickly, or do we prefer to work them out slowly and to put them into operation only as we are obliged to do so? (2) Do we believe that, by putting the reductions of duty on which we have determined into the form of treaties, we can get compensating advantages in foreign markets which would be beyond our reach were we to concede such reductions at once and without return—as would be done through a flat curtailment of duties by general legislation? Granting the premises already stated, there need be little delay over the first of these questions. If tariff reductions are desirable at all from the standpoint of home industry, there can be no doubt that they are desirable at once. The choice between the two modes of tariff revision, therefore, reduces itself to a question whether the one will give us compensating concessions while the other



will not. It should be admitted at once that the apparent argument is in favor of getting as much in the way of openings for our goods in foreign markets in return for what we may concede in tariff reductions as is possible. But a closer analysis will possibly lead to a modification of this conclusion. Tariff retaliation is dangerous. The shifting and changing of duties through successive reciprocity treaties is not desirable from a purely business standpoint. Moreover, in this country, it is hard to work up a public opinion that will suffice to force through Congress treaties involving reductions of duty as often as these treaties would probably require to be passed, were they to be a regular feature of tariff policy. A tariff struggle that has been successful enough to produce legislation should not be wasted in merely making some tentative and inadequate changes which do not cover the whole ground that requires attention. It would seem, therefore, that to rely upon the adoption of successive reciprocity treaties for the purpose of reducing such tariff duties as may be thought to demand change is impracticable. The question remains: Is there any way by which the advantages of commercial bargaining may be combined with those of tariff revision immediately carried out?

#### IV

It is to meet this situation that suggestions with reference to a maximum and minimum tariff system are now being numerous and urgently put forward. Revise the tariff broadly, say the adherents of this plan. Determine the lowest point to which under existing conditions we are willing to allow duties to go. Fix a maximum rate somewhat higher than these minima, and permit the executive branch of the government to conclude commercial agreements with the different countries, ultimately applying the reduced duties to the goods of other countries in such measure as may be dictated by their treatment of our goods. Thus we should get the advantage of tariff reduction, and at the same time should be in position to do whatever was possible through tariff bargaining. It is complained that this plan would throw into the hands of the executive too great a power, and that he would be able under such a system to introduce those

progressive changes in the schedules of duties which are confessedly bad for business stability. This may be true, but is an objection which inheres in such a system of tariff regulation. There can, moreover, be no doubt that the proposed plan is clumsy. If the minimum duties are established at a horizontal reduction below the maximum, the changing of several articles from the maximum to the minimum schedule involves a change which affects them very unequally. If there is an elaborate schedule of minimum rates bearing different relations to the maximum duties the situation is less annoying to the manufacturer and retailer, but is still unsatisfactory. If the executive is permitted to fix any rate he may choose intermediate between the maximum and minimum, there is a repetition of the former danger, and in addition the possibility of lodging too great a power in the hands of the President and the Department of State. A variation of the maximum-and-minimum plan which has been proposed in a number of different quarters with considerable force is that of merely extending somewhat the list of commodities mentioned in section 3 of the Dingley act. This would give to the President a certain number of commodities which could be used in commercial bargaining with other countries. Such commercial bargaining would result, if skilfully carried on—supposing that the list of commodities is carefully selected—in getting for us the bulk of the advantages to be derived from reciprocity treaties of the more formal type. At the same time, the power of the executive in changing the tariff would be limited very materially, and would not be sufficiently extensive to give ground for anxiety. The bargaining we have done by the use of the commodities mentioned in section 3 of the Dingley act has been unexpectedly successful, considering the limited character of that section, and it might fairly be anticipated that this modification of the maximum-and-minimum plan would give us most of the advantages of that general system with few of its disadvantages.

## V

It is fair to ask what one of the various alternatives that have been suggested as a means of escape from our present dilemma

is most expedient from the point of view of practical politics. Expediency must be considered by the statesman in all public affairs, but there is perhaps no domain of public action in which there is a greater call for regarding it than in the manipulation of the tariff and of commercial relations in general.

Considering the situation from this standpoint, it may be stated at the outset that the whole question of German reciprocity and of tariff revision in the larger sense is purely academic, so far as the coming session of Congress is concerned. The determination of the Republican leaders to take no action pending the submission of tariff questions to the electorate is evidently positive. Granting that the subject is to be discussed, therefore, at the coming national convention and in the Presidential campaign, it is clear that the contest to be successful must be rested solely upon the general issue of tariff revision. The jargon of "most favored nation," "special commercial advantages," "customs administration," and the like, is not adapted to the stump, nor will the average man pay much heed to it. Even the less obscure question of German reciprocity is too complex to be followed in all its bearings. But even if it were perfectly simple, and even if there were no trouble in placing the issue squarely before the popular mind, there would remain the doubt whether the issue is one on which it would pay to go before the country and carry through a great popular contest. Such a contest should have broader results, else it would not be worth the friction and trouble which it will involve. The coming struggle should center strictly around the basic question whether there shall be general tariff revision at all, no matter how moderate. The problem of reciprocity is a problem of detail. But it should be noted that there will be far less difficulty in passing and applying the modified form of the maximum-and-minimum system which has already been described, than in accepting the fully developed system now employed by Germany. In brief, it would seem that the call of the present situation is for a popular mandate dictating the revision of the tariff, and that such revision should probably be accompanied by an extension of the policy suggested in section 3 of the Dingley act. Back of this is the question to be deter-

mined by the State Department with regard to the future interpretation of the most-favored-nation clause. The adoption of the European interpretation of that clause will bring our commercial diplomacy into line with that of other nations, and will do away with serious danger of friction in the future. Could the adoption of the European interpretation of the clause be coupled with such a policy of tariff revision as has been suggested, the commercial difficulties which now threaten, not only from the side of Germany, but in other quarters as well, would be definitely removed.<sup>2</sup>

#### H. PARKER WILLIS

<sup>2</sup> The text of the agreement with Germany is as follows:

"Project of Commercial Agreement:

"The President of the United States of America, on the one hand, and His Majesty the German Emperor, King of Prussia, in the name of the German Empire, on the other, animated by a desire to adjust the commercial relations between the two countries until a comprehensive commercial treaty can be agreed upon, have decided to conclude a temporary commercial agreement, and have appointed as their plenipotentiaries for that purpose, to-wit:

"The President of the United States of America, the Honorable Elihu Root, Secretary of State of the United States; and

"His Majesty the German Emperor, King of Prussia, Baron Speck von Sternberg, his Imperial Majesty's Ambassador Extraordinary and Plenipotentiary at Washington:

"Who after an exchange of their respective full powers, found to be in due and proper form, have agreed upon the following articles:

"Article 1. In conformity with the authority conferred on the President of the United States in Section 3 of the Tariff Act of the United States approved July 24, 1897, it is agreed on the part of the United States that the following products of the soil and industry of Germany imported into the United States shall from and after the date when this agreement shall be put into force, be subject to the reduced tariff rates provided by said Section 3, as follows:

"Argols, or crude tartar, or wine lees, crude, five per centum ad valorem,

"Brandies, or other spirits manufactured or distilled from grain or other materials, \$1.75 per proof gallon.

"Champagne and all other sparkling wines, in bottles containing not more than one quart and more than one pint, \$6 per dozen, containing not more than one pint each and more than one-half pint, \$3 per dozen; containing one-half pint each or less, \$1.50 per dozen; in bottles or other vessels containing more than one quart each, in addition to \$6 per dozen bottles, on the quantities in excess of one quart, at the rate of \$1.90 per gallon.

"Still wines, and vermouth, in casks, 35c per gallon; in bottles or jugs, per case of one dozen bottles or jugs, containing each not more than one quart and more than one pint, or 24 bottles or jugs containing not more than one pint, \$1.25 per case, and any excess beyond these quantities found in such bottles

or jugs shall be subject to a duty of 4 cents per pint or fractional part thereof, but no separate or additional duty shall be assessed upon the bottles or jugs.

"Paintings in oil or water colors, pastels, pen and ink drawings and statuary, 15 per cent. ad valorem.

"Article 2. It is further agreed on the part of the United States that the modifications of the customs and consular regulations set forth in the annexed diplomatic note, and made a part of the consideration of this agreement, shall go into effect as soon as possible and not later than from the date when this agreement shall be put in force.

"Article 3. Reciprocally, the imperial German Government concedes to the products of the soil and industry of the United States enumerated in the attached list upon their importation into Germany the rates of duty indicated therein.

"Article 4. The provisions of articles 2 and 3 shall apply not only to products imported directly from the country of one of the contracting parties into that of the other, but also to products which are imported into the respective countries through a third country, so long as such products have not been subject to any further processes of manufacture in that country.

"Article 5. The present agreement shall apply also to countries or territories which are now, or may in the future, constitute a part of the customs territory of either contracting party.

"Article 6. The present agreement shall be ratified by His Majesty the German Emperor, King of Prussia, as soon as possible, and upon official notice thereof, the President of the United States shall issue his proclamation giving full effect to the respective provisions of this agreement.

"This agreement shall take effect on July 1, 1907, and remain in force until June 30, 1908. In case neither of the contracting parties shall have given notice six months before the expiration of the above term of its intention to terminate the said agreement, it shall remain in force until six months from the date when either of the contracting parties shall notify the other of its intention to terminate the same.

"Done in duplicate in English and German texts.

"In testimony whereof the plenipotentiaries above mentioned have subscribed their names hereto at the places and dates expressed under their several signatures."

The section of the agreement embodying the changes in Treasury regulations reads as follows:

\_\_\_\_\_, 1907.

"Excellency: Referring to the commercial agreement signed this date between the Imperial German Government and the Government of the United States, I have the honor to inform you that instructions to the customs and consular officers of the United States and others concerned, will be issued to cover the following points and shall remain in force for the term of the afore-said agreement:

#### A

"Market value as defined by Section 19 of the Customs Administrative Act shall be construed to mean the export price whenever goods, wares and merchandise are sold wholly for export, or sold in the home market only in limited quantities, by reason of which facts there cannot be established a market value based upon the sale of such goods, wares and merchandise in usual wholesale quantities, packed ready for shipment to the United States.

B

"Statements provided for in section 8 of the Customs Administrative Act are not to be required by consular officers except upon the request of the Appraiser of the Port, after entry of the goods. The consular regulations of 1896, paragraph 674, shall be amended accordingly.

C

"In reappraisement cases the hearing shall be open and in the presence of the importer or his attorney, unless the Board of Appraisers shall certify to the Secretary of the Treasury that the public interests will suffer thereby, but in the latter case the importer shall be furnished with a summary of the facts developed at the closed hearing upon which the reappraisement is based.

D

"The practice in regard to 'Personal appearance before Consul,' 'original bills,' 'declaration of name of ship,' shall be made uniform in the sense:

1. That the personal appearance before the Consular officer shall be demanded only in exceptional cases, where special reasons require a personal explanation.

2. That the original bills are only to be requested in cases where invoices presented to the Consular officer for authentication include goods of various kinds that have been purchased from different manufacturers at places more or less remote from the Consulate, and that these bills shall be returned after inspection by the Consular officer.

3. That the declaration of the name of the ship in the invoice shall be dispensed with whenever the exporter at the time the invoice is presented for authentication is unable to name the ship. Paragraph 678 of such regulations, as amended March 1, 1906, shall be further amended by striking out the words:

" 'Whenever the invoice is presented to be consulated in a country other than the one from which the merchandise is being directly exported to the United States.'

"And by inserting after the first sentence the following clause:

" 'As place, in which the merchandise was purchased, is to be considered the place where the contract was made, whenever this was done at the place where the exporter has his office.'

"Paragraph 681 of the consular regulations of 1896 relative to 'swearing to the invoice' shall be revoked.

E

"Special agents, confidential agents, and others sent by the Treasury Department to investigate questions bearing upon customs administration shall be accredited to the German government through the Department of State at Washington and the Foreign Office at Berlin, and such agents shall co-operate with the several Chambers of Commerce located in the territory apportioned to such agents. It is hereby understood that the general principle as the *personae gratae* shall apply to these officials.

F

"The certificates as to value issued by German Chambers of Commerce shall be accepted by appraisers as competent evidence and be considered by them in connection with such other evidence as may be adduced.

"Accept, Excellency, the renewed assurance of my highest consideration.

"His Excellency,

BARON SPECK VON STERNBERG,  
*"Imperial German Ambassador."*